IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CIVIL REVISION NO. 2140 OF 2001

DATE OF DECISION: December 11, 2006.

Parties Name

Sansar Singh and others

...PETITIONERS

VERSUS

Jit Ram and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASBIR SINGH

PRESENT: Mr. Kanwaljit Singh,Advocate, for the petitioners.

Mr. Arun Jain, Advocate, for the respondents.

JASBIR SINGH, J. (oral)

ORDER:

This revision petition has been filed against the order dated February 19, 2001, vide which application of the petitioners to restore the suit, which was dismissed in default, was dismissed by the Court below. It is apparent from the records that on December 17, 1998, when the petitioners failed to put up appearance before the trial Court, their suit was dismissed for non-prosecution. They moved an application for restoration of the same on March 11, 1999, by stating that as they had wrongly noted down the date as March 4, 1999, instead of December 17, 1998, so they could not appear on the date fixed and their suit was dismissed in default. Trial Court framed the issues, parties led their evidence and then came to a conclusion that as the petitioners have failed to give sufficient reason for not putting up appearance on the date fixed, their application was not maintainable.

This Court feels that the trial Court has taken a too technical view of the procedural matters. Rules and procedure are handmaid of justice to enhance its cause and not to scuttle it. Once it has been held by the Court below that there is no limitation to get the suit restored, it was incumbent for the Court below to restore the suit and hear the same on merits. Application was also not moved at a belated stage.The opposite party could have been compensated with costs. Their Lordships of the Supreme Court in Sardar Amarjit Singh Kalra (dead) by L.Rs. and others v. Parmod Gupta (Smt.) (dead by L.Rs. and others, (2003) 3 S.C.C. 272, in para 26 of the judgment had opined as under:-

> "Laws of procedure are meant to regulate effectively, assist and aid the object of doing substantial and real justice and not to foreclose even an adjudication merits of substantial rights of citizen under personal, property and other laws. Procedure has always been viewed as the handmaid of justice and not meant to hamper the cause of justice or sanctify miscarriage of justice."

View extracted above, was reiterated by their Lordships of the Supreme Court in N. Balajit v. Virender Singh and others, (2004) 8 Supreme Court Cases 312, wherein after noting ratio of the judgment, referred to above, in para 10 of the judgment, it was observed that the procedure would not be used to discourage the substantial and effective justice but would be so construed as to advance the cause of justice.

In view of the facts, stated above, and the ratio of the aforesaid judgments, this revision petition is allowed and the order under challenge is set aside. Application of the petitioners to restore the suit is also allowed. Trial Court is directed to restore the suit to its original number and then

provide two opportunities to the petitioners within a span of two months to complete their evidence. Parties are directed to appear before the trial Court on January 08, 2007. Petitioner is further directed to pay an amount of Rs. 3,000/- towards costs to the respondents. Costs be paid on the date parties put up appearance before the trial Court.

December 11, 2006 (Jasbir Singh)
DKC Judge